

Head Start Funds and Union Organizing

ACYF Administration on Children, Youth and Families	U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES Administration for Children and Families	
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INFORMATION MEMORANDUM

TO: Head Start Grantees and Delegate Agencies

SUBJECT: Head Start Funds and Union Organizing

BACKGROUND: The Head Start Act contains a provision concerning union organizing in Head Start programs. Section 644 (e) states that, "Funds appropriated to carry out this subchapter shall not be used to assist, promote or deter union organizing."

Because questions have arisen from time to time about the effect of this restriction on Head Start grantees, we are providing the following information.

INFORMATION: The National Labor Relations Act (NLRA) defines the rights and obligations of employers, employees and labor unions throughout the nation as they deal with issues related to organizing employees and the operating of unions. Agencies that run Head Start programs covered by the NLRA have the same rights and responsibilities in interacting with unions as other employers.

Grantees who are subject to the NLRA should be familiar with the requirements of the NLRA when dealing with union issues. The NLRA does not apply to State and local governments or to Indian Tribes or Tribal Organizations. Additional information about provisions of the NLRA is available from the National Labor Relations Board, 1717 Pennsylvania Avenue, N.W., Washington, D.C. 20570 (telephone: 202-655-4000).

In addition to complying with the NLRA, if covered, all Head Start grantees must comply with specific requirements of the Head Start Act, general Departmental rules and implementing regulations, and applicable OMB Circulars. In particular, section 644(e) of the Head Start Act pertains to the limitations on Head Start grantees regarding union efforts to organize employees. As the Head Start Act states, Federal Head Start grant funds must not be used to "assist, promote or deter union organizing." This restriction only applies to the use of Federal Head Start funds. If a grantee uses non-Head Start funds and resources for these purposes, such expenditures must be carefully documented and costs must be allocated in such a way as to ensure that there is no misuse of Federal funds.

The Head Start Act prohibits the use of Federal funds appropriated to carry out the Head Start program for activities such as:

- Preparing and mailing materials intended to assist, promote or deter union organizing;
- Hiring or consulting legal counsel or consultants to advise the agency about how to assist, promote or deter union organizing;
- Holding meetings during regular duty hours whose purpose is to influence Head Start staff regarding union efforts to organize employees; and
- Planning or conducting activities by managers of Head Start programs during their work hours to assist, promote or deter union organizing.

The activities noted above are examples of prohibited activities, and the list is not intended to be exhaustive. The prohibition against the use of grant funds should be carried out in a reasonable way. For example, Head Start facilities might be used after work hours to hold meetings about union organizing, which employees could attend on their own time, if there were no extra costs. While clearly distinct costs, such as extra hours for a janitor to keep the building open and clean-up, must not be paid from Head Start funds, it would be permissible to pay incidental expenses such as the costs of utilities.

Also, there are some activities that, while related to union organizing, may be allowable expenses because they are not intended to "assist, promote or deter-" For example, while Head Start funds must not be used to pay for advice from a lawyer about how to assist, promote or deter union organizing, managers would not be prohibited from consulting legal counsel about their rights and responsibilities under the laws related to union organizing.

Finally, it should be noted that the prohibition against the use of grant funds relates to the organizing and establishment of unions within the workplace. Grantees may incur normal and reasonable expenses once unions become established within a Head Start program. Examples of such expenses would include negotiating labor agreements with established unions and allowing employees and managers time to resolve grievances during work hours.

FOR FURTHER INFORMATION:

Please contact your ACF Regional Office if you have questions or wish to discuss specific situations your program faces.

/S/

Helen Taylor

Associate Commissioner

Head Start Bureau

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